

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

PATRICIA BROWN)	
Claimant)	
VS.)	
)	
WICHITA CHILD CARE ASSOCIATION)	Docket No. 211,942
Respondent)	
AND)	
)	
FIREMAN'S FUND INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Respondent appeals from an Order entered by Special Administrative Law Judge Michael T. Harris on June 11, 1996. The Order granted claimant's request for temporary total disability benefits and medical treatment with Dr. Jane Drazek as the authorized treating physician.

ISSUES

- (1) Did the Special Administrative Law Judge exceed his jurisdiction by designating Dr. Drazek as an authorized treating physician without affording respondent the opportunity to provide the names of three health care providers under K.S.A. 44-510(c)(1), as amended.
- (2) Did the Special Administrative Law Judge exceed his jurisdiction in ordering respondent to pay temporary total disability benefits from May 3, 1996 forward when claimant had been released to return to work by Dr. James L. Gluck on May 6, 1996, and claimant did not return to respondent seeking

accommodated work when respondent had accommodated work available within Dr. Gluck's restrictions?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board finds that the Order by the Special Administrative Law Judge should be affirmed. Respondent objects to the appointment of Dr. Drazek as the authorized treating physician. The record reflects claimant was referred to Dr. Drazek by one of the physicians expressly authorized by respondent. The statute to which respondent refers, K.S.A. 44-510(c)(1), as amended, governs change of physician under circumstances where the services rendered by the health care provider are not satisfactory. The decision by the Special Administrative Law Judge, naming Dr. Drazek as the authorized treating physician, does not exceed his jurisdiction.

The decision to award temporary total disability benefits, likewise, did not exceed the jurisdiction of the Special Administrative Law Judge. The record includes evidence claimant might be totally disabled for as long as six months from the injury. In addition, the Order by the Special Administrative Law Judge requires payment of temporary total disability benefits only if light duty is not available.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Special Administrative Law Judge Michael T. Harris on June 11, 1996, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October 1996.

BOARD MEMBER

c: Dennis L. Phelps, Wichita, KS
Scott J. Mann, Hutchinson, KS
Michael T. Harris, Special Administrative Law Judge
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director